

MTS

MY TAX SAVERS



SHINING A LIGHT ON
THE BLACK ECONOMY

TAX TIME TIPS

SINGLE TOUCH PAYROLL
YOUR LAST MINUTE
QUESTIONS ANSWERED

INCOME TAX CUTS ARE HERE
HOW MUCH?

MyTaxSavers

SEPT/OCT
2019

Index

03

KEY DATES

Many deadlines are imminent over the next couple of months.

04

SINGLE TOUCH PAYROLL FAQs

With the 1st October STP commencement date nearing for smaller employers, we answer common tax practitioner and employer questions.

07

The Age Pension - A Closer Look

With an increasing number of Australians set to be reliant upon it, we examine the tax and other issues surrounding the Age Pension.

10

SHINING A LIGHT ON THE BLACK ECONOMY

The ATO is massively cracking down on the Black Economy. What exactly is this, and what can you expect?

13

Tax Cuts Now Law!

Personal tax cuts spanning a number of years have now been passed into law. By how much will you benefit?

Print Post Approved 100019425

Published by My Tax Savers, P.O.Box 2255 Southport BC 4215 Email: info@mytaxsavers.com.au Phone: 1800 SAVETAX
Web: www.mytaxsavers.com.au. My Tax Savers is a trading name of My Tax Savers Pty Ltd ABN 85 059 305 976.

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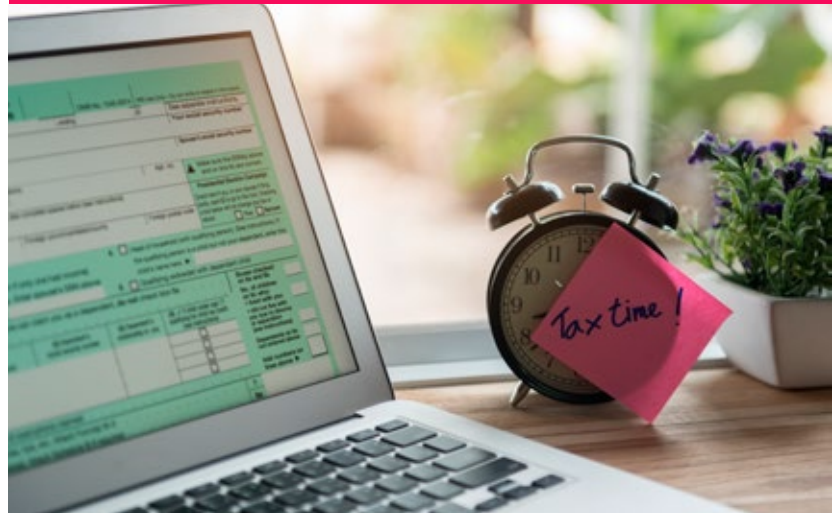
19

Tax Time 2019

This article looks at some key changes when preparing tax returns over the coming weeks and months.

15 ACCOUNTING FOR TRAVEL

Most businesses at some point incur travel costs. How are these treated from a tax and accounting standpoint?



22

YOUR QUESTIONS ANSWERED

Here's a sample of some of the questions our qualified Accountants have answered via our complimentary tax helpline service.

GENERAL ADVICE WARNING: The information contained in this publication is general information only. Any advice, if any, is general advice only. Your objectives, financial situation or needs have not been taken into consideration. You should consider if this information is suitable for your needs and seek the advice of relevant taxation, superannuation and/or other relevant advisers before any financial product information is acted on.

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KEY DATES

Many lodgement and payment deadlines are looming for business including those relating to Activity Statements, superannuation, and more.

SEPTEMBER 2019

21 SEPTEMBER

August monthly Activity Statements – due for lodgement and payment

30 SEPTEMBER

Annual TFN Withholding Report for closely-held Trusts where a Trustee has been required to withhold amounts from payments to beneficiaries during 2018/2019 – due date for lodgement

OCTOBER 2019

1 OCTOBER

Smaller employers (less than 20 employees) expected to be Single Touch Payroll compliant – unless an exemption applies

21 OCTOBER

September monthly Activity Statements – due for lodgement and payment

21 OCTOBER

September monthly Activity Statements – due for lodgement and payment

28 OCTOBER

Final date for eligible quarterly GST reporters to elect to report GST annually

28 OCTOBER

Due date for Superannuation Guarantee contributions for July-September to be made to employee funds

31 OCTOBER

PAYG Withholding Where ABN Not Quoted – Annual Report These amounts are also reported at W4 on your Activity Statement

31 OCTOBER

Due date for 2018/2019 individual tax returns (unless you are lodging via a Tax Agent and are on their lodgement list by this date)

Where the due date falls on a weekend or public holiday, it is deferred until the next business day (except in the case of Superannuation Guarantee deadlines).





SINGLE TOUCH PAYROLL FAQs

Single Touch Payroll (STP) is a new Government initiative aimed at streamlining business payroll reporting obligations. It is now compulsory for larger employers (those with 20 or more employees) and has been since 1 July 2018. It becomes compulsory for most smaller employers from 1 October 2019 (though there are exemptions in limited cases).

The STP regime revolutionises the way employers report payroll information to the ATO. In essence, STP is a new reporting mechanism whereby employers report employee payments (such as salary and wages, allowances, superannuation) and PAYG withholding to the ATO directly through their STP solution (typically, upgraded Standard Business Reporting-enabled software) at the same time they pay their employees. To be clear, no additional reporting is required – just a new method of reporting.

A typical STP-compliant process involves:

- ✓ Adopt upgraded Standard Business Reporting-enabled software (this is essential to reporting under STP) and also software that provides ATO and Fair Work-compliant pay-slips each pay period, and also calculates and processes termination payments
- ✓ Enter employee details accurately in the software
- ✓ Complete standard field details in all the fields requested by your software (STP does not require any additional information to be reported)
- ✓ Provide ATO and Fair Work-compliant pay-slips to employees at the time of payment
- ✓ Calculate Superannuation Guarantee entitlements

- ✓ Consider all workarounds that may exist in your payroll processes and banking instructions to automate them within your software program.

START DATES. DEFERRALS

I was not ready by 1 July, is this a problem?

1 July 2019 is a ‘soft’ STP start date for employers with less than 20 employees (smaller employers). The ATO encourages these employers to commence reporting via STP from this date, but they are not actually required to do so until 1 October 2019. Even then, as below, there may be deferral and exemption options available.

Are there any penalties for non-compliance?

The ATO Commissioner, Chris Jordan, released a statement in which he confirmed that there will be no penalties applied on smaller employers – for mistakes, missed reports, or late reports – for the first 12 months of STP from 1 July 2019. The ATO is taking a flexible, reasonable, and pragmatic approach with the emphasis on getting employers into the system slowly.

Can I have a deferred start date?

There are four deferral concessions available:

1. **All smaller employers** – Deferrals will generally be granted to any smaller employer (less than 20 employees) who requests additional time to commence STP reporting.

As noted above, there is a transition period to STP reporting, so you won’t need to apply for a deferral until the 1 October 2019 deadline passes.

2. **Quarterly reporting for micro employers** – Employers with between 1-4 employees (micro employers) may be eligible to report quarterly through BAS Agents or Tax Agents until 30 June 2021. However, the employer generally must be either:

- A non-computerised business
- Have irregular employment patterns (e.g. seasonal employer), or
- Be an employer of closely-held payees (see later for this definition).

3. **Smaller Employers (less than 20 employees) of Closely-Held Payees** – Closely-held employees are those not at arm’s length from the employer (e.g. family members of a family-owned business, directors or shareholders of a company, or trustees or beneficiaries of a trust). The two available reporting options are:

(a) **Later start date** – Exempt until 2020/2021. No need to apply for the later start date. Note that employees of that same business who are not closely-held, must be reported via STP, and do not get this 12-month exemption.

(b) **Quarterly reporting** – From 1 July 2020 you will have the option to report closely-held payees’ information quarterly through STP. This report will be due at the same time as the quarterly Activity Statement.

4. **Exemptions** – Small employers (less than 20 employees) may be totally exempt from reporting if they have no or low digital capability, no or unreliable internet, irregular employment patterns, or “other extenuating circumstances” (not defined).

INITIAL STEPS

I'm a Tax Agent or BAS Agent and have been appointed to lodge STP Events for my client. What now?

You must first be linked to your client in the ATO systems. For current clients, you will likely already have an existing link to the client at the client, account or role level. Where this is the case, you can lodge STP reports once the software is ready and linked to the ATO (see later).

If you are only providing an STP service for your client you will need to create a link at the STP role level with the ATO. Phone the ATO on **13 72 86** and use Fast Key Code **1 3 1 1**.

We have compliant software, what's the first step to reporting under STP for my client?

The software needs to be connected to the ATO before you can commence reporting STP Pay Events. You can contact the software provider to ask how the software will do this. The connection is generally dealt with in one of two ways:

1. **SSID** – the software may connect to the ATO using a Software Service ID (SSID) which will be displayed by the software during the STP setup. Use your own unique software ID if you will be lodging STP reports for your clients. Your software ID will be connected to your registered agent number (RAN) and ABN.
2. **SSP** – Alternatively, the software may connect to the ATO through a Sending Service Provider (SSP). Where this is the case, you do not need to contact the ATO to set up a connection. The SSP will do this.

I'm not using a Tax Agent or BAS Agent. Our business is lodging by itself and has its own STP compliant software. What now?

The software needs to be connected to the ATO before you can commence reporting STP Pay Events. You can contact the software provider to ask how the software will do this. The connection is generally dealt with in one of two ways:

1. **SSID** - the software may connect to the ATO using a Software Service ID (SSID) which will be displayed by the software during the STP setup. The Software ID connects your software with your own records inside ATO systems Your software ID will be connected to the business ABN. The Software ID for the business should be provided to the ATO and attached to the ABN that belongs to the business. There is a different Software ID for each ABN. When a person from the business logs in, the software will use the business software ID to lodge.

2. **SSP** – Alternatively, the software may connect to the ATO through a Sending Service Provider (SSP). Where this is the case, you do not need to contact the ATO to set up a connection. The SSP will do this.

STP PAY EVENTS

What are these?

An STP Pay Event is effectively a reported pay run that is lodged with the ATO each time an employer pays their workers (each week, fortnight etc.). STP Pay Events must be lodged on or before the day the employer pays the employees.

What do I do each pay day?

Run the normal business process for the pay run. In doing this, the software should send the year-to-date information to the ATO, or create an STP file to be sent. To confirm that it has been sent to the ATO, the software will generally provide a submission date and time, as well as recording a receipt number from the ATO. Remember that your software provider and Tax Agent are great resources if you get stuck.

What payments must be reported in a Pay Event?

Year-to-date figures only (not individual pay details).

A range of withholding payments are required to be reported such as gross wages, allowances etc. PAYG withholding on these payments should also be reported. The mandatory payments are:

- Salary and wages
- Payments of remuneration to the director of a company
- A payment to an office holder (for example, a member of the Defence Force)
- A payment to a religious practitioner
- A return to work payment to an individual
- A payment of termination of employment
- An unused leave payment
- A payment of parental leave pay
- A payment to an employee under the Seasonal Labour Mobility Program

There are three payments that are voluntary – **(a)** payments covered by a voluntary agreement (generally with a contractor that you use) **(b)** a payment under a labour-hire arrangement **(c)** a termination of employment death benefit payment.

If you report these payments (and amounts withheld from them) throughout the year and complete a *Finalisation Declaration* (see later) you will not need to provide the corresponding Payment Summaries to employees or a PAYG withholding payment summary annual report to the ATO.

Regarding payments to contractors, these are not mandatory under STP. However, if you currently report contractors through your payroll solution, you should continue to do so under STP.

Where you report payments to contractors, and you have a voluntary agreement to have withholding applied, under STP you do not need to provide a Payment Summary to these contractors.

Where the contractors are managed outside of payroll (that is, via accounts payable) you do not have to report payments to them under STP.

What payments cannot be reported via STP?

- A superannuation income stream or an annuity
- A superannuation lump sum
- A compensation, sickness or accident payment
- Payment of income of closely held trust where the tax file number (TFN) was not quoted
- Recipient does not quote ABN
- Dividend, interest and royalty payments
- Superannuation
- Departing Australia superannuation payment
- A payment to a foreign resident
- Payments in respect of mining on Aboriginal land, and natural resources
- Alienated personal services payments
- Shares and rights under employee share schemes (ESS)
- Capital proceeds involving foreign residents and taxable Australian property

What about superannuation payments?

Superannuation Guarantee payments will continue to be paid and reported through *SuperStream*. The only thing that changes with STP is the requirement to report an employees' super liability or Ordinary Time Earnings each payday (this is the amount currently recorded on an employee's pay slip).

Super funds will then report when you make the actual payment to an employee's fund.

How do I correct a mistake in a pay run / STP Event?

You will need to correct a pay in the payroll software (by deleting, reversing, making corrective entries the way you have always done) and then you can wait until the next pay run for that employee (which will then provide the ATO with the correct year-to-date figures).

Alternatively, you can send an 'update event' to the ATO which will update the ATO-held year-to-date data for that employee.

Is payment of PAYGW required to be paid to the ATO at the time of processing the STP Pay Event

No. Although this was initially flagged by Treasury, there is no such requirement. The timing for payment of PAYGW is unchanged and will continue to be remitted generally speaking with an employer's Activity Statement (monthly or quarterly).

FINALISATION DECLARATIONS

Employers will be exempt from providing Payment Summaries where information has been reported through STP. This information will be made available to your employees online through myGov. Your employees can also request a copy of this information from the ATO.

To be exempt from issuing these Payments Summaries to employees, a Finalisation Declaration will need to be made at year-end. This declares that the employer have provided all required information for the financial year through their STP reporting.

How do I make a Finalisation Declaration?

You make a Finalisation Declaration by providing a 'finalisation indicator' for an employee at financial year-end as part of STP reporting.

The information will then be displayed as 'tax ready' for employees in ATO online services accessed through myGov. This information will also be pre-filled in employee income tax returns.

What date do I need to run the year-end STP Finalisation?

30 July for 2018/2019, however next year (2019/2020) it will come back to 14 July 2020.

What if I need to amend after finalisation?

If you identify the need to amend details after making a finalisation, you can submit an 'update event' with the updated details and re-finalise. Finalised info can be amended up to five years after the end of the financial year.

MISCELLANEOUS

Who Can Provide STP Services?

STP reporting/ lodgment is a BAS service. Therefore, only BAS Agents and Tax Agents can charge a fee for undertaking STP-related services.

Employers can also of course report and lodge on their own behalf.

Bookkeepers or payroll service providers who are not registered BAS Agents cannot lodge reports on behalf of clients as this constitutes a BAS service. Likewise, unregistered bookkeepers should note that any payroll-related service that includes processing payroll on behalf of an employer, or performing any payroll-related function that involves interpreting tax legislation and helping clients to calculate PAYG withholding or Superannuation Guarantee cannot be undertaken.

However, unregistered bookkeepers may be able to help facilitate STP lodgment such as by undertaking pure data entry, provided the employer client actually makes the STP Declaration and lodges using their own software.

Will the BAS be pre-filled at W1 and W2 with the STP lodged data?

Yes, however the ATO advises that it will be 2020 at the earliest before this becomes the case.

I'm a micro employer (less than 5 employees), are there concessions for me?

Yes. You are able to use a simplified, low or no cost solution (such as an app) to lodge your STP data. An updated list of these products is available on the ATO website (simply Google "stp low cost options").

If an employer starts STP reporting part way through a year, do they have to submit all prior pay runs for the year?

It's year-to-date figures that get reported to the ATO.

Therefore, if you are starting part way through a year, your first STP Pay Event lodgment has all the employees in it that have been paid throughout the year, then no you will not be required to go back and submit all the past pay runs. The most common way is to start reporting by bringing in an opening year-to-date balance for all of your employees.

However, in the event that someone resigned or was terminated before STP was used earlier in the same financial year or the employer had casuals that are no longer used, you do need to do a reconciliation/review, and if necessary go back and submit the payroll data (i.e. Pay Event) that had those employees in it.

However, we recommend that you check with the software provider as there may be some additional steps to bring in the year-to-date figures.

What if an employee leaves during the year?

You will need to make a Finalisation Declaration during the financial year in respect of that particular employee.

I'm a tax practitioner and my client is eligible for quarterly reporting. What's the vehicle for this as I can't find any software that accommodates quarterly reporting.

You will simply use one of the STP simplified, low cost or no cost solutions available to micro business (see earlier). You will then report year-to-date figures for each employee of your client quarterly.



Age Pension - A Closer Look

With a large number of Australians set to be at least in part reliant on the Age Pension in coming years, this article examines the tax and other issues surrounding this benefit, including the recent change to the deeming rates.

TAXABLE?

The Age Pension itself is taxable income and, as a result, taxpayers in receipt of the pension may be required to lodge a tax return. However, if your only income is the Age Pension, then you are not required to lodge a tax return. It's recommended that taxpayers in this position notify the ATO that they do not need to lodge, by submitting a *Non-Lodgment Advice*. This document notifies the ATO that you do not need to lodge a tax return this year.

LODGE A TAX RETURN?

If you received the Age Pension and were in receipt of other income during the year (such as employment income, investment income such as rent or interest) you may be required to lodge a tax return where you 'rebate' income exceeds the following:

- **\$32,279** if you were single, widowed or separated at any time during the year.
- **\$28,974** if your individual rebate income if you lived with your spouse for the full year.
- **\$31,279** if your individual rebate income if you had a spouse but one of you lived in a nursing home or you had to live apart due to illness.

To work out your total 'rebate income' you need your total taxable income plus the following amounts (if they apply to you): **(a)** Reportable Employer Super Contributions, including salary sacrifice contributions but not Superannuation Guarantee contributions **(b)** deductible personal superannuation contributions **(c)** net financial investment loss **(d)** net rental property loss.

ACCESS

Age Pension eligibility age is often the age people aspire to reaching so they can retire. Following some recent changes, the eligibility age is as per the following table and depends on your date of birth. Note that in September 2018, the Government abandoned its plan originally announced in an earlier Federal Budget to increase the Age Pension qualification age to 70.

From 1 July 2017, the qualifying age increased from 65 years to 65 and a half years. It increases by 6 months every 2 years until it reaches 67 by 1 July 2023.

AGE PENSION QUALIFYING AGE

Born	Women Eligible for Age Pension at age...	Men eligible for Age Pension at age...
Between 1 July 1947 and 31 December 1948	64 and a half	65
Between 1 January 1949 and 30 June 1952	65	65
Between 1 July 1952 and 31 December 1953	65 and a half	65 and a half
Between 1 January 1954 and 30 June 1955	66	66
Between 1 July 1955 and 31 December 1956	66 and a half	66 and a half
From 1 January 1957	67	67



EARLIER RETIREMENT?

If you don't wish to work this long or for as many hours as you are currently, the superannuation preservation rules provide a number of options for those planning retirement or semi-retirement earlier than in the opposite table:

1. RETIRE AND ACCESS ALL YOUR BENEFITS AT 55

If you have reached Preservation Age (see following table) but are less than 60, then you are considered retired and can therefore access your superannuation savings if:

- An arrangement under which you were gainfully employed has ended, and
- Your superannuation fund trustee is reasonably satisfied that you never again intend to become employed either part-time (10 hours per week) or full-time. Where you do return to work, no penalties apply – provided that the trustee was satisfied at the time that you originally applied for your savings that you would not return to work.

Date of Birth	Preservation Age
Before 1 July 1960	55
1 July 1960 – 30 June 1961	56
1 July 1961 – 30 June 1962	57
1 July 1962 – 30 June 1963	58
1 July 1963 – 30 June 1964	59
After 30 June 1964	60

2. RETIRE AND ACCESS ALL YOUR BENEFITS AT 60

If you have reached age 60, you are considered retired and can therefore access your superannuation if an arrangement under which you were gainfully employed has ended and you satisfy either of the following:

- You have attained that age on or before the ending of the employment, or
- The trustee of your super fund is reasonably satisfied that you never again intend to become employed either part-time or full-time.

3. KEEP WORKING AND ACCESS SOME OF YOUR BENEFITS AT PRESERVATION AGE

Under this strategy (known as a transition to retirement pension) once you've reached Preservation Age you can commence drawing a pension from your superannuation fund which can then be used to supplement your employment income. The rules are as follows:

- You must have reached your Preservation Age
- You can only take an income stream from your superannuation account generally by way of an account-based pension. These pensions require a minimum percentage amount be paid to you each year
- No lump sum withdrawals are allowable until retirement
- There is no work test to be met
- There is no cap on the amount of benefits that can be withdrawn, other than the account-based pension requirement that no more than 10% of the account balance at the start of the financial year may be paid each year
- The taxable part of your income stream will be taxed at your marginal tax rate, but if your pension is paid from a taxed source, you will receive a tax offset equal to 15% of the taxable part of the income stream. Once you reach 60 years of age, the income stream is tax-free, and
- Your pension can be rolled back into accumulation mode at any time.

ADVANTAGES OF THIS OPTION

- **Supplement** - You can supplement your workforce income by accessing your super benefits early
- **Taxation** - Less tax is paid on the pension income, as compared to the employment income
- **Lifestyle** - You can reduce your working hours without sacrificing your way of life
- **Flexibility** – The pension can be rolled back into accumulation mode at any time. This provides flexibility for those who wish to return to full-time work and therefore no longer have the need for their pension income.

DISADVANTAGE

On the downside, by drawing on your superannuation earlier than normal, you are depleting your retirement savings which can be detrimental long-term.

There are many factors to consider before implementing a transition to retirement strategy. In weighing up whether it is right for you, you should consult your advisor.

4. TURN 65

Once you reach 65, you can access your superannuation savings at any time. There are no restrictions. (Note that it isn't compulsory to withdraw your superannuation savings merely because you have reached a certain age. Rather you can leave your savings inside the concessional-tax superannuation environment and make withdrawals as and when you require.

DEEMING RULES

In addition to the age requirements, there are income and asset tests that must be met in order to qualify for the Age Pension. These are neatly set out in our Tax Rates publication which is available at our website www.mytaxsavers.com.au.

The good news in this area is that there have recently been favourable changes made to the deeming rules. Centrelink uses an income test to work how much they can pay Age Pensioners. They include any deemed income in the income test. Deeming assumes that any financial investments that you hold earn a set rate of income, no matter what they really earn.

How they work out your deemed income depends on your circumstances. They apply a lower deemed rate to a certain amount of your total financial investments. Anything over that amount is deemed at a higher rate.

The lower deemed rate was 1.75%. This dropped to 1% as a result of the Government's changes. The higher deemed rate was 3.25%. This dropped to 3%.

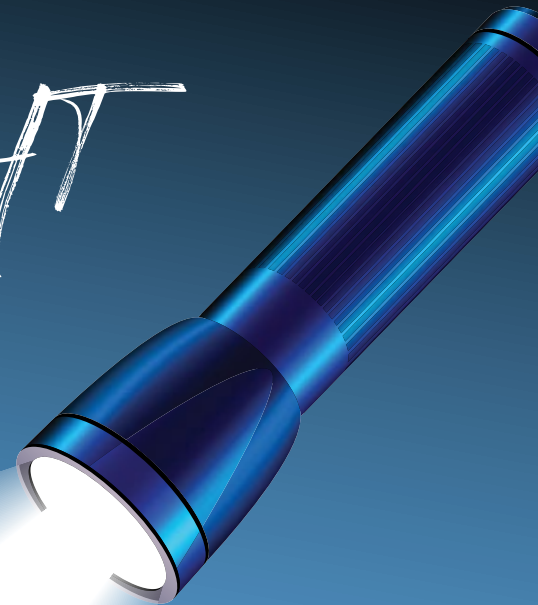
Ultimately, this means that more older Australians may qualify for the Age Pension now when they formerly were ineligible, or alternatively their existing pensions will be increased. The change is backdated to 1 July 2019. Pension recipients do not need to do anything to access potentially higher payments. Centrelink will process these calculations and any higher payments automatically.

DEEMING THRESHOLDS AND RATES (From 1 July 2019)

Family Situation	Financial Investments (\$)	Rate (%)
Single	0 – 51 800	1%
	Above 51 800	3%
Couple (per person) neither receiving a pension	0 – 43 100	1%
	Above 43 100	3%
Couple (combined) neither receiving a pension	0 – 86 200	1%
	0 – 86 200	3%

For example, if you are single and getting either a pension or allowance from Centrelink the first \$51,800 of your financial investments is deemed to earn income at 1% per annum and any amount over that is deemed to earn income at 3% per annum. This is added to your other income for the purposes of the income test for the Age Pension.

SHINING A LIGHT ON THE BLACK ECONOMY



According to the Commissioner, the ATO is expecting the small business income tax gap (an estimate of the difference between the amount the ATO collects and what they would have collected if every business was fully compliant) to be up to \$10 billion each year. Up to 60% of this consists of the black economy. In the 2018 Federal Budget, the ATO was armed with more than \$300 million to deploy in combating the black economy. Therefore, the ATO are well resourced and motivated to tackle this massive hole in their revenue. This article examines the measures that the ATO is putting in place, and how they may impact you or your business.

BACKGROUND

The black economy refers to both dishonest and criminal activities that take place outside of, or involve misuse or abuse of, the tax and regulatory systems. According to the ATO, black economy behaviours include:

- demanding or paying for work cash-in-hand to avoid tax obligations
- not reporting or under-reporting income
- underpayment of wages
- bypassing visa restrictions and visa fraud
- identity fraud
- ABN, GST, and duty fraud
- illegal drugs and tobacco
- sham contracting – presenting an employment relationship as a contracting arrangement
- illegal phoenixing - liquidating and re-forming a business to avoid tax, superannuation and other obligations
- excise evasion
- money laundering
- unregulated gambling, and
- counterfeit goods.

The cash economy is a subset of the wider black economy. The cash economy involves deliberately hiding income to avoid paying the right amount of tax or superannuation. One of the ways this is achieved is by not recording or reporting all of your cash income or electronic transactions. Unrecorded and untaxed transactions that occur in the community are estimated at up to 3% of Australia's Gross Domestic Product (GDP).

ARE CASH PAYMENTS FORBIDDEN?

Not necessarily. Businesses still receive cash payments from customers, and some still pay their employees in cash (although, with the introduction of Single Touch Payroll, this will become increasingly rare). Provided proper records are kept, and payments are declared, there is nothing illegal of itself with cash payments.

We note that in the 2018 Federal Budget the Government announced that it was going to introduce a \$10,000 limit on cash payments made to business from 1 July 2019. The limit would apply to all payments made to businesses with an ABN for goods or services. However, it was not to apply to private sales where the seller does not have an ABN, or cash payments to financial institutions.

Transactions at or in excess of the \$10,000 threshold would need to be made electronically or by cheque.

However, this proposal while it has been subject to public consultation, has yet to be legislated.

WHISTLEBLOWER LAWS

From 1 July 2019, the new tax whistleblower laws came into effect.

The regime provides protections and remedies for tax whistleblowers who make a disclosure about breaches or suspected breaches of the tax laws or misconduct in relation an entity's tax affairs. From this date, the following parties – related to an entity – are permitted to make disclosures to the ATO and will be protected from retribution:



- an officer of the entity (within the meaning of the Corporations Act)
- an employee
- an individual or their employees who supplies paid or unpaid goods or services to the entity (including tax practitioners)
- an individual who is an associate of the entity
- a spouse or child of any of these listed individuals, and
- a dependant of an individual referred to above or a dependant of the individual's spouse.

This includes where these individuals had a prior relationship with the entity about which they are making disclosures.

For a whistleblower to be afforded protection, their disclosure must relate to tax matters administered by the ATO. This includes income tax (including CGT), GST, and FBT etc. Breaches relating to workplace laws (such as the underpayment of workers) or other taxes such as those administered by state revenue offices, are not covered. Information provided by tax whistleblowers may include, for example, details of non-compliance with a tax law, tax evasion, a scheme set up to avoid tax, unexplained wealth, or any other tax-related misconduct. Having made a disclosure to the ATO, it is against the law for them to reveal your identity.

If your identity does become known or you are suspected of being the person who has blown the whistle, you are provided with thorough protection. It is an offence for a person to victimise a whistleblower or another person by engaging in conduct that causes detriment, where the conduct is based on a belief or suspicion a person has made, may have made, proposes to make or could make a disclosure that qualifies for protection. 'Detriment' is defined very broadly and includes:

- dismissal of an employee
- alteration of an employee's position or duties to his or her disadvantage (e.g. demotion)
- discrimination between an employee and other employees of the same employer
- harassment or intimidation of a person
- harm or injury to a person, including psychological harm
- damage to a person's property
- damage to a person's reputation
- damage to a person's business or financial position, and
- any other damage to a person.

If you are a tax practitioner, you are also permitted to blow the whistle on clients or former clients. In doing so, you will be protected from any penalties involving the Tax Practitioner Board, the ATO, or any

other court or tribunal. That said, most practitioners will be reluctant to do so, given that – despite the protections afforded – blowing the whistle is still at its heart a breach of your professional obligations, particularly around confidentiality.

Practitioners are also listed as an eligible recipient. An earlier-listed individual may come to you with a disclosure. Where this occurs, you must not disclose their identity to your client. Doing so, can result in six month's imprisonment and/or fines of up to \$200,000 for an individual or \$1 million for a corporation.

BAN ON ELECTRONIC SALE SUPPRESSION TOOLS

From 4 October 2018, the Government has banned the manufacture, distribution, possession, use or sale of electronic point of sale (POS) sales suppression technology. Sales suppression technology and software allows businesses to understate their incomes by untraceably deleting selected transactions from electronic records in POS equipment.

According to the ATO, ESSTs can come in different forms and are constantly evolving. For example, an ESST can be:

- an external device connected to a point of sale (POS) system
- additional software installed into otherwise-compliant software
- a feature or modification, like a script or code, that is a part of a POS system or software

An ESST may allow income to be misrepresented and under-reported by:

- deleting transactions from electronic record-keeping systems
- changing transactions to reduce the amount of a sale
- misrepresenting a sales record, for example by allowing GST taxable sales to be re-categorised as GST non-taxable sales
- falsifying POS records.

While most POS systems won't contain an ESST, if you're concerned that your POS system may contain an ESST, contact your POS system provider and ask them if your POS version, or make and model, contains such a tool. If it does, you need to ask them to remove it. Having done that, the ATO requires either you or your Tax Agent to then make a voluntary disclosure by sending an email to esst@ato.gov.au

SMALL BUSINESS BENCHMARKS

The benchmarks are industry-specific financial ratios that the ATO has developed to assist in comparing a business against others in the same industry. The benchmarks

are representative of tax returns and activity statements lodged by businesses within an industry and provide guidance on what figures that the ATO would expect businesses within a particular industry to report. Benchmarks are published for more than 100 industries across the following sectors:

- accommodation and food
- building and construction trade services
- education training, recreation and support services
- health care and personal services
- manufacturing
- other services
- professional, scientific and technical services
- retail trade, and transport, postal and warehousing

The two types of benchmarks developed by the ATO for the use of small business are:

1. PERFORMANCE BENCHMARK

These apply to all industries. Performance benchmarks are financial ranges for your industry to help you work out how you compare to other businesses in your industry and if you need to make any improvements. There are two types of performance benchmark ranges:

(a) Income Tax

These are developed from information businesses declare on their tax returns. Tax return benchmark ranges include:

- Cost of sales to turnover (excluding labour)
- Total expenses to turnover
- Rent to turnover
- Labour to turnover
- Motor vehicle expenses to turnover.

(b) Activity Statement

Using information declared on Activity Statements, these benchmark ranges include:

- Non-capital purchases to total sales
- GST-free sales to total sales.

2. INPUT BENCHMARKS

These benchmarks apply only to tradespeople undertaking domestic projects and purchasing their own materials. Input benchmarks show an expected range of income for tradespeople based on the labour and materials they use to undertake domestic projects. Input benchmarks may help you to:

- find your industry's benchmark range
- estimate your turnover based on labour and materials used
- ensure your records accurately reflect your income.

Businesses that fall outside the benchmarks may be the subject of ATO enquiry (sometimes just a phone call but more often a letter). If your business does fall outside the benchmarks, don't panic. Remember, the benchmarks are an average and, as such, there are bound to be valid outliers. If you do fall outside the benchmarks, you should however check that you've declared all expenses and income on Activity Statements and tax returns. Where you have, there may be a plausible explanation as to why your business falls outside the benchmarks such as:

- *Higher rent to turnover* - a business may be located in a high rent major shopping centre and consequently pay more rent than others in the same industry.
- *Higher labour to turnover* - a hair salon for example may only offer basic men's hair cuts rather than style cuts and therefore have a higher labour-to-turnover ratio than other hair salons.

Communicating these reasons to the ATO if they make enquiries, may stave off further action (including a wider audit). Even if you are not subject to ATO enquiry, businesses are encouraged to compare their business to the benchmarks. Doing so, can help you identify where you may need to improve your business practices, or where you currently excel. The quickest and easiest way to work out how you compare is by using the ATO's *Business Performance Check Tool* in the ATO app, which does the calculations for you. The ATO app is available to download for free from the Google Play or Apple app stores.

MOBILE STRIKE TEAMS

As part of its Budget funding boost (see earlier), to implement new strategies to combat the black economy, the ATO indicated that it will be deploying mobile strike teams to visit up to 30 locations across the country. Establishing mobile strike teams will increase visibility of ATO enforcement activities and give businesses direct access to ATO staff for help and education. The activities of the mobile strike teams will include walk-ins, review engagements and audit engagements. Visiting businesses allows ATO officers to physically observe the business set up, such as the physical size and scale of the business, estimate staffing needs and review record keeping practices.

The locations will include 10 metro, 10 regional, and 10 remote areas in most states.

Strike teams have already visited thousands of businesses across the country. Going forward, the ATO says it will visit 10,000 businesses across the country each year for the next three to four years.

Businesses can expect a visit from the ATO if they suspect a business is:

- Hiding sales and not declaring income
- Paying cash in hand
- Underpaying workers
- Not registered for PAYG
- Not registered for GST.

The following industries have so far been targeted:

- cafes, restaurants and takeaway food services
- building, pest control, agricultural and gardening services
- personal care services
- legal and accounting services
- transport support services
- automotive repair and maintenance
- postal and courier pick-up and delivery services.
- computer system design and related services
- other personal services
- architectural, engineering and technical services.

Importantly, as part of the visits, the ATO will also be visiting tax practitioners of these small businesses as part of their early intervention strategy as it attempts to understand the drivers behind practitioner behaviour that may be leaning towards enabling black economy behaviour. The ATO has previously said that its early intervention program for agents will not be an audit, but a discussion to look at a vast range of behavioural indicators, including sizeable amounts of amendments happening after tax returns are lodged, and high levels of outstanding returns and Activity Statements.

Says ATO assistant commissioner, Colin Walker:

We'll discuss how you were selected as part of the population, we'll provide information about what behavioural indicators that we've identified, and we'll ask you to assist us in understanding your practices to get a better picture of your processes and what the drivers are behind what we're seeing. Again, you shouldn't be worried about this – it is about ensuring we understand how you operate, we understand your practice, and we begin to understand what is causing problems. If we happen to find no problems, that you just happen to have a specific type of client, that your processes are excellent, then it will be a nice amicable discussion over a cup of tea and off we'll go.

TAXABLE PAYMENTS REPORTING

The Taxable Payments Reporting System (TPRS) is a transparency measure designed to ensure that payments made to contractors in prescribed industries where cash payments are common, are declared in full. It requires businesses that operate in these prescribed

industries to report payments they make to contractors for work performed within that same industry.

Under the regime, some businesses may be required to report payment information you make to contractors for the following services:

- Building and construction services
- Cleaning services
- Courier services
- Road freight services
- IT services
- Security, investigation or surveillance services

However, you are not required to report where the following exceptions apply:

- building and construction services where either:
 - » you're no longer primarily in the building and construction industry
 - » you didn't pay contractors for building and construction services
- cleaning services where either:
 - » the total of payments you received for cleaning services for the financial year is less than 10% of your current or projected GST turnover
 - » you haven't paid any contractors for cleaning services
- courier or road freight services where either:
 - » the total of payments you received for courier and road freight services for the financial year is less than 10% of your current or projected GST turnover
 - » you haven't paid contractors for courier or road freight services
- IT services where either:
 - » the total of payments you received for IT services for the financial year is less than 10% of your current or projected GST turnover
 - » you haven't paid contractors for IT services.
- security, investigation or surveillance services where either:
 - » the total of payments you received for security, investigation and surveillance services for the financial year is less than 10% of your current or projected GST turnover
 - » you haven't paid contractors for security, investigation or surveillance services.

UNSURE?

If you have dealings in these industries and are not certain whether your business is required to report, email our complimentary tax helpline service free of charge info@mytaxsavers.com.au and our qualified Accountants will assist you.



Taxes

TAX CUTS NOW LAW

In the first sitting of Parliament following the May 2019 Federal Election, the Federal Government legislated personal income tax reductions in full, without amendment. The reductions come by way of an increase to the low and middle income tax offset (LMITO) as well as reductions to the actual tax rates and thresholds.

LOW AND MIDDLE INCOME TAX OFFSET

The reduction in tax provided by LMITO will increase from a maximum amount of \$530 to \$1,080 per annum and the base amount will increase from \$200 to \$255 per annum for 2018/2019, 2019/2020, 2020/2021 and 2021/2022 income years. Specifically:

- The LMITO will now provide a reduction in tax of up to \$255 for taxpayers with a taxable income of \$37,000 or less.
- Between taxable incomes of \$37,000 and \$48,000, the value of the offset will increase at a rate of 7.5 cents per dollar to the maximum offset of \$1,080.
- Taxpayers with taxable incomes between \$48,000 and \$90,000 will be eligible for the maximum offset of \$1,080.
- From taxable incomes of \$90,000 to \$126,000 the offset will phase out at a rate of 3 cents per dollar.

The LMITO will be received on assessment after individuals lodge their tax returns for 2018/2019, 2019/2020, 2020/2021 and 2021/2022 income years. This is designed to ensure that taxpayers receive a benefit when they lodge returns from 1 July 2019. It will be automatically processed by the ATO and does not need to be claimed separately.

LOW AND MIDDLE INCOME TAX OFFSET FOR 2018/2019 TO 2021/2022

Taxable income (TI)	LMITO
\$0 - \$37,000	\$255
\$37,001 - \$48,000	$\$255 + [(TI - \$37,000) \times 7.5\%]$
\$48,001 - \$90,000	\$1,080
\$90,001 - \$125,999	$\$1,080 - [(TI - \$90,000) \times 3\%]$
\$126,000 +	Nil

TAX TIP

Now the law has been passed, you may wish to get your 2018/2019 records to your Tax Agent and instruct them to lodge early rather than in the first part of next year (which is the normal lodgement time if lodging with a Tax Agent). By doing so, all other things being equal, you will bring forward your LMITO entitlement with a potential additional refund of up to \$1,080 (subject to the above income limits, and subject to not otherwise having underpaid tax during the year).

INCOME TAX REDUCTIONS

STAGE 1

From 1 July 2022, the Government will increase the top threshold of the 19% personal income tax bracket from \$41,000 to \$45,000.

Also from 1 July 2022, the Government will increase the low income tax offset (LITO) from \$645 to \$700 with the following impact:

- Taxpayers with a taxable income which does not exceed \$37,500 will receive a LITO of \$700
- Taxpayers with a taxable income which exceeds \$37,500 but is not more than \$45,000 will receive a LITO of \$700, less an amount equal to 5 per cent of the excess
- Taxpayers with a taxable income which exceeds \$45,000 but is not more than \$66,667 will receive a LITO of \$325, less an amount equal to 1.5% of the excess.

Expanded tables reflecting the changes are below:

TAX RATES AND INCOME THRESHOLDS			
Rate	2017-18	2018-19 to 2021-22	2022-23 to 2023-24
Nil	\$0 - \$18,200	\$0 - \$18,200	\$0 - \$18,200
19%	\$18,201 - 37,000	\$18,201 - 37,000	\$18,201 - 45,000
32.5%	\$37,001 - \$87,000	\$37,001 - \$90,000	\$45,001 - \$120,000
37%	\$87,001 - \$180,000	\$90,001 - \$180,000	\$120,001 - \$180,000
45%	\$180,001 +	\$180,001 +	\$180,001 +
Low and middle income tax offset	-	Up to \$1,080	-
Low income tax offset (LITO)	Up to \$445	Up to \$445	Up to \$700

STAGE 2

From 2024/2025, the 32.5% marginal tax rate will be reduced to 30%. The Government states that this will more closely align the middle tax bracket of the personal income tax system with corporate tax rates. In 2024/2025 an entire tax bracket, the 37% tax bracket will be abolished under the Government's already legislated plan. With these changes, by 2024/2025, approximately 94% of Australian taxpayers are projected to face a marginal tax rate of 30% or less.

Therefore, with legislated changes, from 2024/2025, there would only be 3 personal income tax rates – 19%, 30% and 45%. From 1 July 2024, taxpayers earning between \$45,000 and \$200,000 will face a marginal tax rate of 30%. The changes are reflected in the table below:

Rate	2022-23 and 2023-24	2024-25 onwards
0%	\$0 - \$18,200	\$0 - \$18,200
19%	\$18,201 - 45,000	\$18,201 - \$45,000
32.5%	\$45,001 - 120,000	\$45,001 - \$200,000
37%	\$120,001 - \$180,000	N/A
45%	\$180,001 +	\$200,001+



ACCOUNTING FOR TRAVEL

Most taxpayers will at some point incur travel expenses – such as accommodation, airfares, hire cars, taxi/Uber fares, tolls etc. Given the broadness of this topic, this article is confined to travel expenses incurred by employers or their employees in the course of running a business – from the perspective of the business owner. This is as distinct from employees, sole traders or partners of a partnership incurring travel costs (as these are typically dealt with very differently, and are covered by the substantiation rules).

TAX TREATMENT

The primary legislation applicable to travel costs incurred by employers is:

1. Section 8(1)(b) of the *Income Tax Assessment Act* (1997) which provides an income tax deduction for travel costs necessarily incurred in carrying on a business
2. The Fringe Benefits Tax (FBT) rules that apply to any component that confers a personal, non-cash benefit on employees or their associates (e.g. spouses), and
3. The entertainment provisions which may apply to components that comprise entertainment (such as certain meals while travelling).

Broadly, the treatment of these three components is respectively as follows:

1. **Travel with no private component** – deductible and GST creditable as per any business expense. Overseas travel costs however generally will not have any GST including (a) passenger transport to or from Australia or between destinations outside Australia; (b) domestic air travel where the passenger is a non-resident

and the travel was purchased while the passenger was outside Australia; (c) some domestic travel within Australia connected with international transport; (d) transport insurance connected with the international transport of passengers; and (e) purchasing a service which is used or enjoyed outside Australia.

2. **Travel that confers a private benefit on an employee** (including that which constitutes meal entertainment) – deductible and GST creditable. However, you then need to deal with FBT and payroll consequences (see later).
3. **Travel that constitutes entertainment: provided to non-employees e.g. clients, suppliers etc. (or that is provided to employees and constitutes a Minor Fringe Benefit i.e. under \$300)** – not deductible and no GST credit. For example, accommodation or airfares connected with providing entertainment by way of food, drink, or recreation (i.e. weekend away for a Christmas party at a restaurant).

TRAVEL VERSUS LIVING AWAY FROM HOME

As established, travel costs in respect of work (including accommodation, meals etc.) are deductible and GST creditable. By contrast, if an employer pays for the expenses of an employee who is deemed to be “living away from home” for work purposes (rather than travelling) by way of a Living Away From Home Allowance (LAFHA) for instance, then such payments are dealt with under the FBT provisions.

LAFHAs are taxable fringe benefits (which may be exempt from FBT in certain circumstances) whereas travel allowances may form part of an employee’s assessable income against which deductions may be allowed for the cost of meals, accommodation and incidental expenses. LAFHAs should not be reported via Single Touch Payroll (or on the Payment Summary as the case may be) as it is exempt income.

LAFHAs are paid where an employee has moved and taken up temporary residence away from their usual place of residence, so as to be able to carry out employment duties for a time at the new (but temporary) workplace. A travel allowance, on the other hand, is paid because the employee is travelling in the course of performing their job and has not relocated. Other distinguishing factors are set out in the following table:

Travelling	Living Away From Home
The existing work location continues to be the employee's regular place of work	The employee has established a second or alternative work location
The employee simply takes travel items as opposed to residential belongings	The employee effectively moves to take up temporary residence away from what is considered their usual place of residence and may take with them relatives, their wardrobe pets, cars etc.
The employee continues to reside near the existing work location	The employee is far away from the original work location
The employee uses temporary styles of accommodation while away from home (e.g. hotel)	The employee resides in more permanent accommodation such as a leased premises
Absent for less than 21 days**	The employee is absent for a lengthy period (e.g. more than one month) but has the intention to eventually return home

** The 21-day rule of thumb distinction between travel and living away from home was contained in *Miscellaneous Tax (MT) Ruling 2030* which was more than 30-years old when it was withdrawn in late 2017. This rule of thumb has been replaced in draft tax ruling *TR 2017/D6* which provides a less clear-cut distinction between travel and living away from home but indicates this time limit is more like 2 to 3 months (after which it is more likely an employee will be deemed to be living away from home). However, there has been a significant delay in the finalisation of this ruling which, at the time of writing, is still in draft form. Therefore, in terms of length of time away from home, there is an absence of settled guidance at present. Because the taxation treatment of LAFHAs and travel allowances are so disparate, if you are uncertain in this area, seek direction from your Accountant.

Once it is established that an employee is 'living away from home' (rather than just travelling for work purposes) the following conditions must all be met for the LAFHA to be exempt from FBT:

1. The recipient employee must maintain a home in Australia that they are living away from because of work. (This home must be available at all times for their current use and enjoyment i.e. they must not be renting it out while they are away. If they are, then they must be able to move back in straight away as opposed to waiting for the lease term to expire).
2. The LAFHA must not have been paid for more than 12 months in respect of a particular location
3. The recipient employee must provide their employer with a declaration about living away from home (which provides their two addresses and a statement that they will return to their home address once they are not required to be living away for work purposes). A template for this is available on the ATO website.

Additionally, in order for the employer to reduce the FBT on the allowance, employees must substantiate (i.e. by way of receipts) all of their accommodation expenses, and must also substantiate all of their food/drink expenses above the ATO's reasonable amounts. These amounts are updated each year via an annual Tax Determination which applies from 1 July – the amounts for 2019/2020 are contained in TD 2019/7. This is available on the ATO website.

Note that LAFHA's (even if not exempt from FBT because they fail to meet the above conditions) are not subject to PAYG withholding, and accordingly do not fall under Single Touch Payroll reporting.

Where the above four conditions are not satisfied, the employer will not be able to reduce the taxable value (i.e. the FBT payable) on the allowance.

Although the FBT liability will generally be handled by your Accountant, to reduce the FBT payable, you can assist by:

- Ensuring employees provide the above declaration to you (the employer) before the FBT return is lodged, and
- Reminding employees to substantiate all their accommodation and food/drink costs.

TAX TIP

Where a LAFHA is paid (or the employer is contemplating paying such an allowance) but the above conditions are not satisfied and therefore FBT would apply, the employer may wish to instead consider compensating the employee in some other way such as increasing their salary by the equivalent amount. This amount would then be assessed as income to the employee (rather than an FBT liability for the employer) often at a lower tax rate than the 47% FBT rate.

Where an employee is – after weighing the above factors – deemed to be travelling overnight for work purposes, the employer may pay them an overnight, reasonable travel allowance. (See our Travel Allowances publication on our website). This allowance is a way of easing the record keeping burden around travel. This means that an employer has the choice to pay an allowance to an employee who is travelling for work instead of paying the specific costs of travelling. The treatment of these allowances is straightforward whereby if:

- The employer expects the employee to spend all of the travel allowance on accommodation, food or incidental expenses
- The employer shows the amount and nature of the allowance separately in their accounting records
- The allowance is not for overseas accommodation, and
- The amount paid is less than or equal to the reasonable allowance rate...

...then **(a)** no tax should be withheld from the allowance **(b)** it is not reportable for Single Touch Payroll purposes, and **(c)** it should be recorded on employee Pay Slips.

On the other hand, where the amount is folded into salary and wages (i.e. it is not shown separately in the accounting records), tax must be withheld from the whole amount, and it is reportable for Single Touch Payroll purposes.

Alternatively, where the above conditions are met, however the allowance exceeds the reasonable, per day amounts, then tax must be withheld from the excess only, and reporting of the whole allowance is required under Single Touch Payroll

EXAMPLE

Bob and Tom are employees of the same company and have in August 2019 been sent on interstate work which will require them to stay overnight in hotels over the course of a two-week period.

Bob, who is travelling to Melbourne, has an annual salary of \$95 000 and his employer pays him a per-night allowance \$400 for accommodation, meals, and incidentals.

Tom, a senior manager, is travelling to Perth, has an annual salary of \$223 000, and is also paid a per-night allowance of \$400.

According to the ATO's Tax Determination (which is contained in our Travel Allowances publication) the maximum accommodation, meals and incidentals allowance for each employee per night are as follows:

Bob is entitled to a reasonable domestic travel allowance of \$306.75 per night, as he is staying overnight in Melbourne and earns below the minimum salary band contained in the Tax Determination of \$124,480. Consequently, as he is paid an allowance in excess of the reasonable, per night amount, then tax must be withheld from the amount in excess of \$306.75 per night, and the whole allowance must be reported through Single Touch Payroll.

Tom is entitled to a maximum reasonable domestic travel allowance of \$452.50 per-night, as he is staying overnight in Perth and earns above the top salary band contained in the Tax Determination of \$221,551. Consequently, as he is paid an allowance within the reasonable, per-night amount, then no tax should be withheld from the allowance, it is not reportable for Single Touch Payroll purposes, and it should be recorded on Tom's Pay Slip.

RECORD KEEPING

1. LOCAL TRAVEL WITHIN AUSTRALIA

Normal Tax Invoice rules apply, and a travel diary (see later) should be maintained where the travel is more than five nights and the trip was not exclusively for business.

2. OVERSEAS TRAVEL

Invoices/receipts and Tax Invoices for any that attracts GST and a travel diary where travel is for more than five consecutive nights. The following table is a summary of the travel records required for work-related travel expense claims where the taxpayer is required to sleep away from home when travelling on work:

Travel Allowance Received And...	Domestic Travel		Overseas Travel	
	Written Evidence?	Travel Diary?	Written Evidence?	Travel Diary?
The amount claimed does not exceed the reasonable allowance				
- Travel less than 6 nights in a row	No	No	No*	No
- Travel 6 or more nights in a row	No	No	No*	Yes**
The amount claimed exceeds the reasonable allowance				
- Travel less than 6 nights in a row	Yes- for the whole claim	No	Yes	No
- Travel 6 or more nights in a row	Yes- for the whole claim	Yes	Yes	Yes**

* Regardless of the length of the trip, written evidence is required for overseas accommodation expenses but not for food, drink and incidentals paid as a reasonable travel allowance.

** Members of international aircrews do not need to keep a travel diary (travel record) if they limit their claim to the amount of the allowance received.

The main purpose of a travel diary is to show which of your activities (conference, trade meeting etc.) were undertaken in the course of producing assessable income. Workers should record the activity in a diary or similar document showing:

- The nature of the activity
- The day and approximate time when it began
- How long it lasted, and
- The location.

Each entry should be recorded as soon as possible after the activity, should be legible and written in English.

Remember.... When Required, No Travel Diary, No Claim!

AUDITS

On the topic of record-keeping, if an employer gets hit with an ATO audit in respect of travel costs, it will likely be part of a wider FBT audit. The records the ATO will typically be looking for include:

- Proper receipt keeping
- Travel diaries
- A connection with the travel expense and the running of the business.

Essentially the ATO will be looking for a Fringe Benefit that has been under-declared. They will be looking through supporting evidence and making enquiries of officers of the business to ascertain this.

ON-CHARGING TRAVEL COSTS

Businesses will often on-charge travel costs they incur in the course of undertaking work for their customers.

In these scenarios, two challenging GST-related questions arise:

1. Should GST be charged on the on-charged expenses?
2. If so, should GST be charged on the GST-inclusive amount of the expense?

The expense is a cost of yours but may be recovered from your customer. As such, the on-charged amount becomes part of the overall supply. If the underlying supply attracts GST, then so will travel costs. For example, assume that a GST-registered interior decorator flew interstate to undertake work for a client and paid \$770 (GST-inclusive) in airfares. When on-charging this cost to their client, the airfare would generally form part of the cost of the underlying supply, and take on the GST character of the underlying supply. In this case, the underlying supply of interior decorating would attract GST, and therefore so would the on-charged airfare. However, the GST component of the airfare would first be stripped out when on-charging (i.e. GST would be charged by the interior decorator on the \$700, not the \$770). The \$70 would be claimed back on the interior designer's Activity Statement.

PRIVATE TRAVEL

Another common scenario is travel that is partly private in nature and confers a fringe benefit on an employee (including a director or owner of the business). The treatment in this instance is best illustrated by way of example

EXAMPLE

Two brothers Dave and Dylan (directors of a company), travel on a business trip to see clients. Dylan spends all his time meeting the clients and transacts the necessary business, while Dave attends some of those meetings, but for half the time he visits tourist attractions and catches up with friends.

The treatment is as follows:

- Dylan's travel costs are tax deductible, GST creditable, and no FBT applies.
- Dave's travel costs will be subject to the FBT provisions if expensed. However, any meal entertainment is isolated and dealt with either using the 50/50 method or the Actual method (depending on the company's chosen method). See later for meal entertainment treatment.

Provided Dave maintained a travel diary supporting the 50% business portion, half of the FBT on his travel costs is reduced under the "otherwise deductible rule" and the other half is a taxable fringe benefit that finds its way to the Company's FBT return, the benefit constitutes a Reportable Fringe Benefit amount, and GST is claimed.

MEAL ENTERTAINMENT

While travelling for work purposes, meals will often be consumed by employers and their employees (as well as your clients) which are paid for by your business. The tax treatment of these meals depends on whether they constitute "meal entertainment".

In the many cases where they do not constitute meal entertainment (such as where a business owner or employee has an evening meal by themselves at a hotel while travelling overnight for work), GST and an income tax deduction can be claimed. However, in other cases, such as dinners with clients at a restaurant, the meal will generally constitute entertainment, in which case FBT may apply.

Where this is the case, we would suggest isolating these components from the other travel costs.

The FBT and Income Tax Treatment of a whole range of meal entertainment scenarios can be found in Taxation Ruling TR 97/17 (simply Google TR97/17). In that ruling, the GST treatment follows the income tax treatment every single time.

Tax Time 2019

With the 2018/2019 financial year behind us, over the coming months taxpayers and Tax Agents will be lodging tax returns. This article looks at some key changes when preparing returns. Even if your return is being prepared by your Tax Agent, there is something in this article for everyone.

PRIVATE HEALTH INSURANCE STATEMENTS

For the first time, health insurers are not required to send private health insurance statements to members. In previous years, they have been required to send statements out by 15 July. It is now optional for them to send out this information. Private health insurance information will however be available if individuals (via myTax) or your Tax Agent lodges your tax return electronically. The information will be pre-filled in your return by the middle of August. If this has not happened, then you will need to request a statement from your insurer.

It's important to report this information accurately as it is used to calculate your liability (if any) for:

- The private health insurance rebate (this however may be provided to you by your insurer by way of reduced premiums during the year)
- The Medicare Levy Surcharge (if applicable).

TAX TIP

The thresholds for the Medicare Levy Surcharge for 2019/2020 are available in our [Tax Rates](http://www.mytaxsavers.com.au) publication on our website www.mytaxsavers.com.au which was also mailed out to you. The thresholds depend on the make-up of your family or if you are single.

If you are liable for the surcharge and are contemplating taking out private health insurance, you will need to consider:

- The size of the surcharge (the more you earn, the more you will pay) versus the cost of private health insurance
- How likely you are to require health insurance (i.e. how often will you use it). For example, younger people may use it less often than older people
- Loadings that may apply in the event that you have delayed taking out insurance. Once you turn 31, a 2% **loading** is added to your hospital cover premium for every year you're without hospital cover. This is called the **Life-time Health Cover (LHC) loading**. To avoid this **loading**, you can take out hospital cover by July 1st following your 31st birthday, which is called your base day.

INCOME STATEMENTS

If an employer reported their payroll through Single Touch Payroll in 2018/2019 or future years, they are not required to provide Payment Summaries to employees. For many smaller employers (those with less than 20 employees), Payment Summaries would have been required for the 2018/2019 financial year as these employers were not required to start reporting via Single Touch Payroll until the current financial year.

Under Single Touch Payroll, income statements replace Payment Summaries. Employees can access their income statements (if they don't receive Payment Summaries) through ATO online services via myGov at any time. Employees will receive a notification from the ATO in their myGov inbox when their income statement is 'Tax ready', so they can complete their tax return. Employees will be able to contact the ATO for a copy of their income statement if they do not have access to myGov.

TAX TIP

Though most smaller employers will have provided their employees with Payment Summaries in 2018/2019, employees will eventually need a myGov account to access their income statements in future years. Creating an account also allows you to link with other services provided by Government departments such as Centrelink, Child Support, Department of Veterans' Affairs, NDIS etc.

Create an account at www.my.gov.au

LINE ENTRY DEDUCTION DATA

Commencing 1 July 2019, for the first time the ATO will receive line entry deduction data (also known as granular data) entered into Tax Agent practice management software and lodged through the practitioner lodgment service. Therefore, the detail of all deductions data from D1 to D15 will be included with the lodgment of tax returns from 2018/2019 onwards.

TAX TIP

From an audit or ATO inquiry perspective, large claims at a particular label are now visible to the ATO and may attract their attention. Taxpayers therefore need to ensure they have substantiating documentation (e.g. receipts) in the event enquiries are made.

RESEARCH AND DEVELOPMENT (R&D) AMENDMENTS

Last year, the Government announced that it would reform the R&D tax incentive to encourage additional investment in R&D while ensuring the integrity and fiscal affordability of the incentive. These changes are expected to apply for income years commencing on or after 1 July 2018. The ATO advises that it will accept tax returns lodged during the period up until the proposed changes are passed by Parliament. In the event that the changes are passed, taxpayers and their Tax Agents will need to review their position and, if necessary, amend tax returns.

To recap, the R&D Tax Incentive is the Australian Government's principal measure to encourage industry investment in R&D. The program provides offsets for eligible entities

(essentially Australian companies and foreign companies with an Australian permanent establishment) that spend \$20,000 or more per annum on experimental R&D activities subject to strict conditions. If your company is eligible, the program can be quite lucrative as follows:

- 43.5% refundable tax offset for eligible companies with an aggregated turnover of less than \$20 million per year – unless they are controlled by tax exempt entities.
- 38.5% non-refundable offset for all other eligible companies (with a turnover of \$20 million or more). This assists to reduce a company's tax liability. Where the tax liability is reduced to zero, any excess offset may be carried forward to reduce tax liabilities in future years.

When people think of R&D, thoughts generally turn to white coats in laboratories. While activities carried out in laboratories may qualify, so too can activities carried out on the factory floor. The main type of activity claimable is core activities. These are experimental activities conducted for the purpose of generating new knowledge or improved materials, products, devices, processes or services. They must also be activities whose outcome cannot be known or determined in advance but must be determined using scientific methods and principles and proceed from **hypothesis to experiment to observation and evaluation to conclusion (the scientific method)**. Therefore, a process of trial and error will not qualify.

If your company is developing cutting-edge products, discuss with your Tax Agent about whether you are eligible to make a claim (as your Tax Agent may not be aware of your developmental activities).

INCREASING ACCESS TO COMPANY LOSSES

In February 2019, the Senate passed into law changes which sees the 'same business test' supplemented with a more flexible 'similar business test' for companies. The new law will make it easier for companies to carry-forward prior year losses, and also – going forward – innovate and adapt to changes in the economy or their industry. The new Similar Business Test is backdated to 1 July 2015, so it may apply in this tax return and earlier years.

For more information on this change, see the 2019 May/June edition of this publication which is available on our website www.mytaxsavers.com.au

EXPANDING ACCELERATED DEPRECIATION FOR BUSINESS

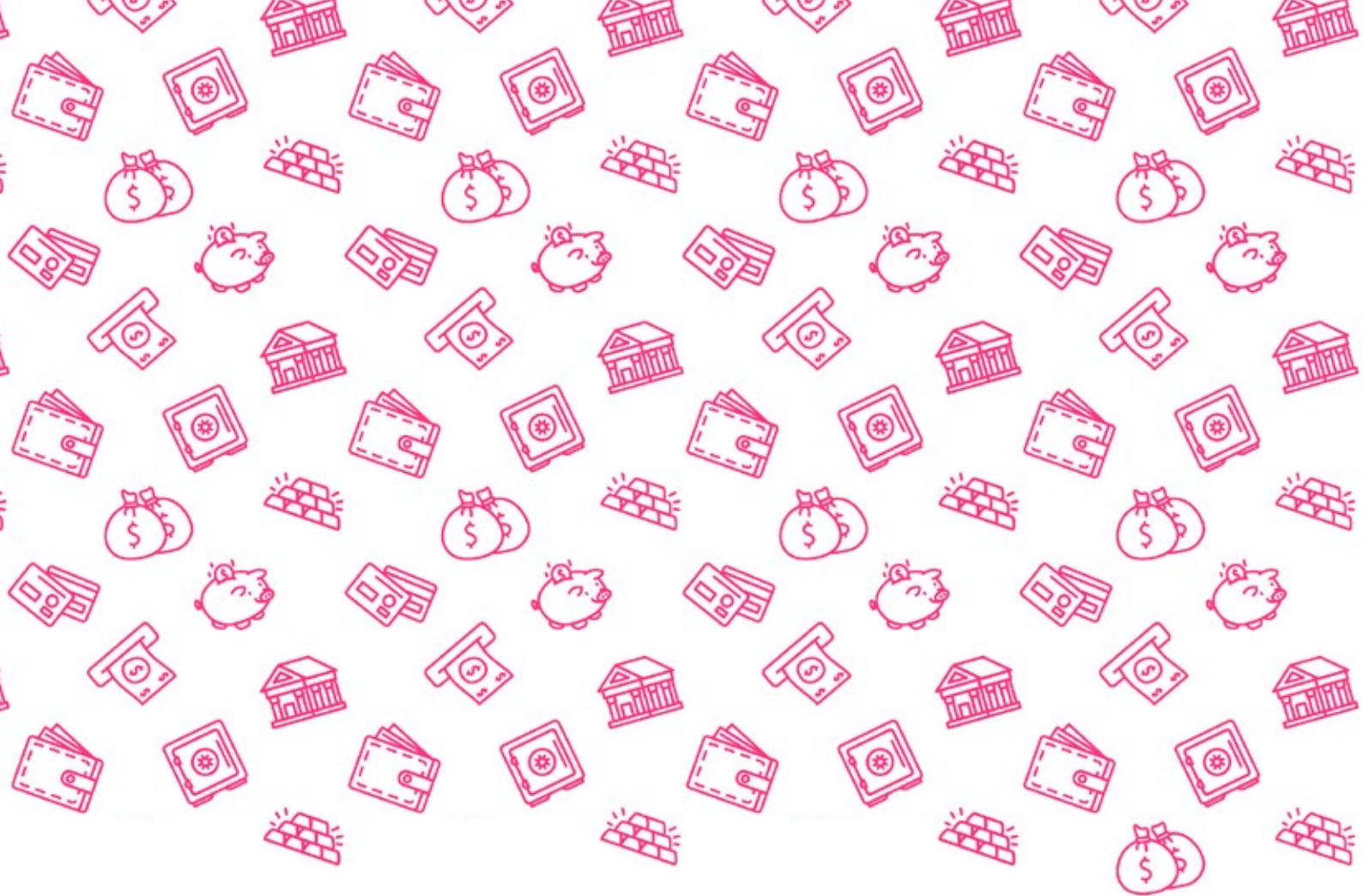
For small businesses (turnover of less than \$10 million) there are three instant asset write-off thresholds that apply in 2018/2019 as follows:

- from 7.30pm (AEDT) on 2 April 2019 until 30 June 2020, if the asset costs less than \$30,000 each
- from 29 January 2019 and before 7.30pm (AEDT) 2 April 2019, if the asset costs less than \$25,000 each
- before 29 January 2019, if the asset costs less than \$20,000 each.

The balance of the general small business pool is also immediately deductible if the balance is less than \$30,000 at the end of an income year that ends on or after 2 April 2019 and on or before 30 June 2020 (including an existing general small business pool).

The instant asset write-off threshold now includes businesses with a turnover from \$10 million to less than \$50 million. These businesses can claim a deduction for the business portion of each asset that costs less than \$30,000 if they are purchased and first used or installed ready for use from 7.30pm (AEDT) on 2 April 2019.

Business owners should understand the nature of the benefit involved. They are only getting back the tax rate on the asset, not the full value of the asset. The tax benefit is calculated as the amount you spend multiplied by your tax rate. Thus, \$10,000 spent by a 30% rate taxpayer saves \$3,000. The business has spent net \$7,000. This is the same as the old law where the where the threshold was \$1,000 (or \$100 for larger businesses). Businesses don't get any extra cash than they would otherwise have received under the old rules - they simply get it sooner. Getting it sooner however may significantly improve cash flow. Cash flow is one of the main reasons for small business failure.



FIRST HOME SUPER SAVER SCHEME

If an individual requested a release of an amount under the First Home Super Saver Scheme (FHSS) during 2018/2019, they must include in their tax return:

- any assessable FHSS amount, and
- the tax withheld amount.

This is the case even where an individual did not actually receive the amount until after 30 June 2019.

These individuals will receive a Payment Summary from the ATO containing the assessable amount and the tax that has been withheld from it.

Under the scheme, first home buyers who make voluntary superannuation contributions can then withdraw those contributions (up to certain limits) and an amount of associated earnings to put towards purchasing their first home. Concessional tax treatment will then apply to amounts that are withdrawn under the scheme.

ELIGIBLE TAXPAYERS

To be eligible for the scheme you must:

- Be 18 years or older
- Have not used the scheme previously, and
- Have never held a freehold interest in real property in Australia, a company title interest, or a long-term lease over land (being renewals or extensions that are for at least 50 years and the terms of which apply to the lessee under substantially the same terms under which the lessor owned or held a lease of the land). This ensures that individuals who have an interest in a leasehold arrangement that is broadly equivalent to ownership will not be able to use the scheme.

What makes the scheme attractive is the concessional tax treatment. The 30% offset means that earnings made on your contributions are taxed concessionally, and this will largely be paid by your superannuation fund (not you personally). Additionally, when contributing you will likely be entitled to a tax deduction for the amount of your contribution. Or, if you salary sacrifice the amount, the contribution is not subject to PAYG withholding tax by your employer (unlike the remainder of your salary).

By comparison, if the money was invested outside of superannuation, earnings would be taxed at your marginal tax rate which can be as high as 47%. In his speech announcing this measure, the Treasurer said that most individuals who use the scheme will accelerate their savings by 30%. He cited an example of an individual who earns \$80,000 and makes additional superannuation contributions of \$15,000 each year, would have a total of \$25,603 after two years – making them almost \$5,300 better off than under the highest interest-earning savings account of 3.05% which was then available (most are now offering no more than 2% per annum).

YOUR QUESTIONS ANSWERED

The following questions came to us via our complimentary Tax Helpline service. Do you have a tax question that you need guidance on? Our team of qualified Accountants is standing by.

UNIT TRUSTS

What are the pros and cons of a unit trust? How does it differ from a standard trust?

A unit trust is a trust in which the trust property is divided up into a number of defined shares (called units). They are often used by unrelated investors who wish to purchase a stake in an asset or a business. In such a trust, a beneficiary (the unit trust owner) is entitled to the income and capital of the trust in proportion to the number of units they hold. Thus, by giving each party a fixed interest, this form of trust provides the commercial rigidity and certainty that is desired when unrelated parties enter into an arrangement together.

In summary, the advantages are that:

- A party's interest in the assets and capital are defined
- A party's interest can be easily transferred by sale of the units, and
- A party's interests can be easily reacquired by the trustee.

On the downside, such trusts do not offer the asset protection of a discretionary trust. If you become bankrupt for instance, then your units are treated in the same way as any other asset, and may be sold to pay creditors.

BANKRUPTCY AND THE ATO

If I declare myself bankrupt, can the ATO still go after me for outstanding debts?

With an increasing number of people being declared bankrupt (either voluntarily or by a creditor obtaining a court order) it's important to note that despite being declared bankrupt, certain debts are not extinguished and must be paid during and after your bankruptcy period including:

- Court imposed penalties and fines
- Unliquidated damages you are liable to pay due to accidents (e.g. a car accident)
- Commonwealth student assistance debts (i.e. HELP debts to the ATO), including supplement loans
- Debts you incur after your bankruptcy commences, and
- Maintenance, including child support (but only after your bankruptcy ends).

With respect to ATO amounts that you owe:

- Tax debts for the period before the date of bankruptcy are extinguished when you become bankrupt
- If the ATO has not issued and served a notice of assessment at the time of bankruptcy but there is a tax liability that has arisen before the time of bankruptcy, it is a contingent liability and is extinguished when you become bankrupt
- ATO debts arising from tax periods after your bankruptcy has commenced will not be extinguished.

Also be mindful that the ATO may keep any tax refund you are due and offset it against any debt you owe them or the Commonwealth (e.g. child support).

BANKRUPTCY - MORE INFORMATION

- ✓ Unless you pay your debts in full, bankruptcy lasts for three years
- ✓ Despite eventually being discharged, your name will forever appear on the National Personal Insolvency Index register which can be checked by lending institutions when you apply for credit in the future. Therefore, think carefully if contemplating declaring yourself bankrupt. Talk to your Accountant first.
- ✓ During bankruptcy, if your after-tax income exceeds the following amounts, you will be required to pay half of the excess to your trustee: in bankruptcy

Number of Dependents	Net (After Tax) Annual Allowable Income
0	\$57,866
1	\$68,282
2	\$73,490
3	\$76,384
4	\$77,541
>4	\$78,698

LEASING AND TAX

What are the income tax implications of leasing equipment for our small business, instead of getting a loan?

Lease Payments - Lease payments, generally speaking, are deductible when they are paid. A possible exception to this rule is where the prepayment of lease payments crosses into the following financial year and where you are not a small business taxpayer. Lease residual values must also be set within ATO guidelines.

Stamp Duty - Some Australian jurisdictions impose duty on agreements of lease. In the majority of cases, the stamp duty component is simply added onto the monthly lease payment. Like the base lease payment, any stamp duty is also deductible.

Borrowing Costs - Leases are, in essence, another form of finance and like most forms of finance, will tend to carry with them borrowing costs at their outset. These could include valuation fees, documentation fees, and search fees etc. The deduction in respect to borrowing costs is generally spread over the lesser of the period of the lease or five years. The deduction is calculated from the date that the lease takes effect.

Lease Residual - A lease residual typically falls due for payment at the completion of a lease. At its heart, a lease residual is merely the price at which the lessor agrees to sell the leased asset to the lessee. Upon payment of the residual, ownership of the asset is conferred upon the lessee. There are a number of courses of action which may transpire when the lease payment falls due:

- The lessee may pay the lease residual. The payment of a residual is not a deductible lease expense, but rather a capital purchase. The asset would then typically fall under the depreciation provisions.
- The lessee may walk away. The lessor retains possession of the asset and there are no further tax implications for the lessee.
- The lessee may re-lease or refinance the lease residual. A second lease agreement may be formed where a new series of lease payments are made towards the lease residual. A new residual is also quantified representing a percentage of the original residual. In such cases, it is simply the new series of lease payments which become deductible.
- The lessor may sell the leased asset to a third party on behalf of the lessee. Although the payment of the residual by the lessee has not taken place, they have nonetheless acquired the leased asset (a capital purchase) and at the same time sold the asset to a third party via the lessor.

If the two amounts are the same, no cash will change hands and there will be no income tax obligations for the lessee. If the sale proceeds exceed the lease residual, the lessor will remit the difference to the lessee and a profit on sale will ensue. If the sale proceeds are less than the lease residual, a loss on sale will result and the lessor will require that the lessee make good the shortfall.

AIRBNB

I'm renting out part of my home via Airbnb. What are the tax issues I need to be aware of?

If you are renting out rooms of your home, or indeed entire properties – whether via Airbnb or another facilitator, or indeed just privately – there are manifold tax issues to be aware of:

Rental Income

This will need to be declared in your tax return, irrespective of whether you rent out a room or an entire property, and irrespective of whether this is your main source of income.

Rental Expenses

Expenses associated with renting out your property can be claimed as a tax deduction. However, there can be a number of complexities. Expenses directly associated with the rented area are deductible in full, while expenses that relate to shared areas (i.e. areas that you as the host may share with renters), must be apportioned. Expenses that relate to the host's private area only, are not deductible.

Expenses include claims for depreciation and also capital works deductions (i.e. depreciation on the building structure). Expert advice should be sought as this is a complex area, with significant deductions potentially in play.

Capital Gains Tax

Broadly, the sale of your main residence is free from Capital Gains Tax (CGT) when you sell it, where it was the main residence for the entire time you owned it, and it was not used to produce income. However, if you are renting out a portion of your home, you will only be eligible for a partial main residence exemption. If you are renting out the entire home, then none of the property will enjoy the main residence exemption for that period. Exceptions however apply, including the ability to rent out your home for six-years, and yet still enjoy the full CGT main residence exemption. This exemption however is subject to a number of conditions, and advice should be sought on your specific circumstances.

It is important to note that properties purchased prior to 20 September 1985 are totally exempt from CGT, irrespective of whether they are rented out.

Goods and Services Tax

Income from renting out part or all of a residential property is typically "input-taxed". This means that you should not charge GST on the rent that you earn from guests/tenants. Conversely, you cannot claim GST credits for any rental expenses that you incur, but you are entitled to claim the GST-inclusive amount of any rental expenses as a tax deduction. All told, there is no requirement to register for GST on account of your rental property alone.

FINANCIAL YEAR-END BONUSES

This year a number of staff were paid \$1000 or \$500 cash bonuses. I did not treat these as salary but as year-end gifts. What is the tax position with regard to these payments?

The staff bonuses need to be treated as Salary and Wages as they represent actual cash payments. They could not be treated as Fringe Benefits due to the fact that they are in the form of cash. You may be required to amend the Activity Statement for the period in which the payments were made and you would need to address the issue of PAYG Withholding. Superannuation shortfalls may also occur in which case you may need to lodge a Superannuation Guarantee Charge Statement form with the ATO, and pay any shortfalls.